



State Board of Accounts Conference 2019

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Indiana Election Division

2019 Indiana Legislative Session

- State legislature had many election-related bills and amendments introduced. Many not heard, some were defeated, and most significantly changed during the process.
 - 12 election bills passed, and signed into law by Governor, effective upon passage or will be on July 1, 2019.
 - 5 additional bills made “technical changes” to IC 3.
 - Indiana Election Division publishes *2019 Indiana Election Legislation Summary* which organizes changes by category, and provides information on bill numbers (which are now “Public Laws” with their own numbering system).
 - New 2020 Election Code to be published this year!
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Voter Registration

Full Service Agencies

- BMV no longer required to transmit a duplicate paper copy of a VR app. to county*
- Law enforcement offices (state police, sheriff, municipal law enforcement agency) required to distribute a VR App. to persons applying for a license to carry handgun unless the person declines in writing (more to come on implementation)**

Citations affected: *IC 9-24-2.5-4, 6 & 7; ** IC 3-7-18-2; **IC 3-7-20.5-1

Voter Registration

Cybersecurity Provisions

- Two-factor authentication (token or other method) will be required to access the statewide voter registration system*
- Each county voter registration office (clerk or separate board of registration) must file a statement with Election Division with name and contact information for at least one individual for the state to communicate with regarding cybersecurity issues**

Citations affected: *IC 3-7-26.3-15; ** IC 3-7-26.3-15

Voter Registration

Cybersecurity Provisions

- State and county have discretion whether to disclose administrative or technical information that would jeopardize the SVRS (non-exhaustive list):
 - Physical security arrangements for SVRS hardware/software
 - Two-factor/password requirements and information
 - Internet provider/firewall information
 - Virus/malware protection software

Citations affected: * IC 5-14-3-4

Voter Registration

Proficiency Standards

- After December 31, 2019, a county user must demonstrate to the Secretary of State and Election Division that the user has been sufficiently trained and can properly access the SVRS and comply with laws governing the operation of SVRS*
- A county voter registration office may revoke a county user's authorization to access the SVRS for good cause and shall file a report of the revocation with the Secretary of State and the Election Division not later than seven (7) days after the revocation is effective*

Citations affected: * IC 3-7-26.3-35 [New]

Voter Registration

Voter List Maintenance

- Election Division to request information from BMV regarding SVRS records of individuals whose date of birth is: (1) missing from the SVRS; or (2) indicates age of registrant of at least 115 years
 - Election Division to forward BMV information to county
 - If county determines that individual listed in BMV record is the same individual listed in the SVRS, then the county shall amend the individual's voter registration record to contain the correct date of birth and document information came from BMV*

Citations affected: * IC 3-7-38-2-4

Voter Registration

Voter List Maintenance

- If a registered voter submits a new VR app. at a new address, but acknowledgment notice is returned by USPS due to an unknown or insufficient address within pending period, County VR must:
 - Deny new VR app. and cancel registration at any previous voter registration address listed on the VR app outside of the precinct listed on the new VR app.
 - Send a notice & new VR app. to voter at their previous address by forwardable mail advising voter that their VR app. was denied, that their registration record at the previous registration address was cancelled, and that a new VR app. must be submitted to become registered

Citations affected: *IC 3-7-33-5

Voter Registration

Voter List Maintenance

- If a declination received from a full-service VR agency indicates a voter resides at an address different than the one currently on the registration record, the county may send an address confirmation (“SAMC” a/k/a “NCOA”) notice to a voter*
- A county VR office may update a registration record converted from a rural route to a numbered address based on information from the USPS**

Citations affected: * IC 3-7-38-2-2; ** IC 3-7-40-6

Voter Registration

Voter Registration Drives

- It is a Level 6 felony to pay or offer to pay an individual any property based on the number of voter registration applications obtained by the individual
 - An individual may continue to be paid for this political activity, but not “directly or indirectly” based on the number of applications obtained*

Citations affected: *IC 3-14-2-1

Absentee Voting

Absentee Applications

- Absentee ballot application to vote may mail must be received not later than 11:59 p.m. 12 days (rather than 8 days) before election day*
- A person filing an absentee ballot application of another must file an affidavit (ABS-17) ***that must be signed by the person who originally received the completed application from the voter/applicant*****
- It is a Level 6 felony to pay or offer to pay an individual any property based on the number of absentee ballot applications obtained by the individual
 - An individual may continue to be paid for this political activity, but not “directly or indirectly” based on the number of applications obtained***

Citations affected: *IC 3-11-4-3; **IC 3-11-4-2; ***IC 3-14-2-1

Absentee Voting

Absentee Ballot Application Mailings

- A mailed communication of more than 100 that includes an Indiana absentee ballot application is required to set forth the name and mailing address of the person making the mailing. The name and mailing address must be:
 - Clear and conspicuous
 - At least 12 point type size
 - Reasonable degree of color contrast between the background and the printed statement (black text on a white background or not less than the color contrast between the background and the largest text included in the mailing)

Citations affected: *IC 3-11-4-5.2; *IC 3-6-4.9 [New]

Absentee Voting

Absentee Ballot Application Mailings

- CEB may investigate, hold hearings, and impose civil fines up to \$1,000 for each violation (but not for each communication actually circulated or published) if it relates to the election of candidates for local and school board offices
 - CEB may enter into an agreement with the person violating this requirement to pay the full penalty and waive a hearing
 - Penalties or costs collected for a violation of this requirement to be deposited in the election administration assistance fund*

Citations affected: *IC 3-11-4-5.2; *IC 3-6-4.9 [New]

Absentee Voting

Absentee Ballots

- A county election board may not scan a voted absentee ballot card using an optical scan ballot scanner before Election Day*
- If a voter's absentee ballot has not been received by the noon Election Day deadline, the absentee ballot counters or CEB members may issue a certificate to the voter to allow the voter to cast a ballot in person at the polls**

Citations affected: *IC 3-11.5-4-6; **IC 3-11.5-4-13; ** IC 3-11.5-4-21;

Absentee Voting

Absentee Central Count

- All Indiana counties will count absentee ballots at a central location*
- If a county uses a paper poll list instead of an electronic poll list, the clerk has the option to provide the inspector with poll list **pre-marked with absentee information****
 - Otherwise list is provided to inspector to mark the poll list as part of preparing the polls before they open

Citations affected: *Multiple; **IC 3-11.5-4-1; **IC 3-11.5-4-8; *3-11.5-4-24

Absentee Voting

Absentee Miscellaneous

- Absentee ballots for those who have filed applications must be mailed not later than 45 days before the election
 - Previously, state law required counties in municipal election years to mail absentee ballots on the first day of in-person absentee voting if the CEB reduced days for in-person absentee voting*
- If the two absentee board members assist in-person voter then they must sign the affidavit of assistance (PRE-3)**

Citations affected: *IC 3-11-10-26; **IC 3-11-9-3

Candidates/Officeholders

Confirmation Notice

- A candidate confirmation notice (CAN-5) is to be sent to all candidates (not just primary candidates) not later than 1 business day after the candidate filing (certificate of candidate selection to fill a ballot vacancy, for example)*
 - The CAN-5 shall be hand delivered, sent by first class mail, or by electronic mail if an email address has been provided in the candidate document filed

Citations affected: *IC 3-5-4-1.3[New], *IC 3-8-2-12[Repealed]

Candidates/Officeholders

Statement of Economic Interests

- City and town court judges are not required to file the statement of economic interests filed by other local candidates (CAN-12) since they file an economic interest statement with the judicial qualifications commission*
- In a county that does not have a separate board of registration, a petition candidate (school board & local office other than judge/prosecutor) must file the statement of economic interests (CAN-12) with the clerk with the candidate's petitions
 - If there is a separate board of registration, the candidate's CAN-12 must be filed with the circuit court clerk after the signatures on the petitions have been certified by the board of registration**

Citations affected: *IC 3-8-9-4; **IC 3-8-9-4

Candidates/Officeholders

Miscellaneous

- A candidate's nickname is to be placed on ballot within parenthesis regardless of how it was indicated on the candidate's declaration or other candidate filing (quotation marks, for example)*
- A candidate circulating a petition for the candidate's placement on the ballot is considered a petition carrier and must complete the petition carrier's information on the bottom of the first page of the petition**

Citations affected: *IC 3-5-7-5; **IC 3-6-12-2

Candidates/Officeholders

Miscellaneous

- If the circuit court clerk receives a notice of a resignation but fails to provide notice of the resignation to the county chair within the required 72 hours, the county chair (or other entity that fills vacancy) may fill the vacancy or call the caucus without receipt of the notice
 - Where timely notice of resignation is not provided to the county chair, the vacancy must be filled within 30 days after the county chair receives the notice rather than 30 days from the date the vacancy occurs*

Citations affected: *IC 3-13-11-3

Voting Qualifications; Procedures

- “Buyer’s remorse”: Cannot change primary political party ballot choice once voter signs poll list or voter’s choice entered into electronic poll book. Same rule with absentee ballot once absentee application filed.*
- “The One Who Got Away”: When voter leaves booth without casting ballot, workers must attempt to alert voter. If unable to do so, or voter declines to return, inspector and both judges complete process by casting ballot. Details vary depending on type of voting system. New PRE form will be issued to document actions of inspector and judges. **

*IC 3-10-1-24 **3-11-11-17; 3-11-13-33; 3-11-14-25

Polling Place Locations and Hours

- County election board (rather than commissioners):
 - publish legal notice of location of each polling place.
 - can determine by unanimous vote to have more than one precinct at same location (even if commissioners previously designated sites)*
 - Co. Commrs still select polling locations in non-vote center counties
- County election board does not have authority to extend voting hours in polling place or vote center. CEB, by unanimous vote, can file petition with court to extend hours.
- If court grants petition, can only extend hours in precincts where opening was delayed or closed during regular hours, and extend for period of time not more than the time the polls were closed in the precinct or polling place. **

*IC 3-11-8-3.2; 3-11-8.4.3; 3-11-8-7 **IC 3-11-8-8; 3-11.7-7

Voting Qualifications; Procedures

- Waiting in line at the polls. New PRE-1 oath book includes STEP for inspector to document persons waiting to vote at 6 a.m., 12:30 p.m., and 6:00 p.m. Approximate numbers may be necessary at multiple precinct polling sites, vote centers.*
- Special for 2019! Voting within same precinct if precinct split between municipality and unincorporated area: **Cannot** return from outside city to vote, even if in same precinct.**
- Voter casting provisional ballot **must** complete PRE-4 affidavit and sign poll list. (Formerly, law said “may”.)***

* IC 3-11-8-9 **IC 3-7-39-7 ***IC 3-11.7-5-2.5

Voting Qualifications; Procedures

- Sample ballot accuracy checks in vote center counties. Check to be made BEFORE election day by CEB. CEB to have a copy of sample ballot for each precinct available at each vote center, with posted notice to voters*
- Retention of unused ballots. CEB must retain 1 regular official ballot from each TOWNSHIP in county and one provisional ballot from ANY PRECINCT in county as part of CEB minutes. CEB minutes to be retained forever.**

* IC 3-11-13-27; IC 3-11-14-17 ** IC 3-6-5-13

County Election Administration

- **Anti-nepotism law** for county election board members:
Appointed CEB member may not be “relative” of any person with authority to appoint a CEB member. “Relative” includes:
 1. spouse, parent, child, brother or sister;
 2. aunt, uncle, niece, nephew; or
 3. grandparent or grandchild
 of individual with appointing authority.*
 - County clerk appoints CEB members in 89 counties (chair nominates). Co. Chair has direct appointment authority in Lake, Tippecanoe, and Porter Counties

* IC 3-6-5.9

County Election Administration

- **Certification of final election results must be through SVRS**
A county election board must use SVRS to certify the final results of elections conducted in the county.
No more paper certified results “under the clerk’s seal”.
Election Division can authorize alternative method of submitting certified results (if necessary due to technological problems, for example).
- **Does not include precinct level election results yet.**
Capability for precinct level results to be submitted using SVRS continues to make progress for use in November 2019.

* IC 3-12-5

County Election Administration

- **“School Safety Referendum” authorized to be placed on ballot**

Similar process as existing school controlled projects and school tax levy referendum.*

- **Note changing county certification dates for primary:**

School Safety Referendum must be certified by noon, 60 days before primary.

School Controlled Project Referendum must be certified by noon, 74 days before primary (not 60 days before)

School Tax Levy Referendum must now be certified by noon 74 days before 2020 primary*

* IC 6-1.1-20-3.6; IC 20-46-9; IC 20-46-1-14

Voting Systems

- **Phasing out current touchscreen voting systems:**
 - Beginning in 2030, county cannot use any touchscreen system without voter verifiable paper audit trail.
 - Beginning 2020, county cannot purchase **new** touchscreen system without voter verifiable paper audit trail (VVPAT), but can continue to use and maintain older systems until 2030.
- **New touchscreen voting systems with VVPAT must permit voter to correct ballot after viewing paper trail and before casting ballot. Voter has one chance to correct unless voter has disability or there is a technology error. ***

* IC 3-11-14-2; 3-11-14-24.5; 3-11-15-13.3

Voting Systems

- **“Get Me to the Polls on Time”; New Delivery Requirements:**
 - **Electronic poll books** delivered to inspector, but new requirements:
 - Tamper-proof numbered seals for each poll book.
 - County to record seal numbers and provide list of numbers to inspector.
 - At polls, inspector and opposite party judge confirm that seals are intact, numbers match, and no sign of tampering. (New form coming for this).
 - If problem, county election board to be notified immediately.
 - County can adopt resolution with alternative security procedures, must be filed with Election Division before poll books are delivered to precinct or vote center.*

* IC 3-11-3-10; 3-11-8-7.5

Voting Systems

- **“Get Me to the Polls on Time”; New Delivery Requirements:**

Voting Systems may be delivered to precincts or vote centers by several options:

 - Bipartisan county election board members.
 - Bipartisan teams, members designated by CEB.
 - Commercial delivery company, under contract with CEB security procedures, must be filed with Election Division before poll books are delivered to precinct or vote center.
 - Cannot use jail inmates, community correction program participants.*

* IC 3-11-3-10; 3-11-8-7.5

Voting Systems

- “Get Me to the Polls on Time”
 - Chain of custody requirements:**
 - Bipartisan teams or commercial delivery company must certify that:
 - Voting systems remained in custody and control after leaving county and before delivery to polls.
 - No other individual had access to voting system.*
- Public Tests and Random Voting System Selection
 - Voting System Technical Oversight Program (VSTOP) to provide each county with 2 lists of randomly selected optical scan and touchscreen voting system units
 - List 1 will contain at least 5% of voting systems for testing.
 - List 2 will contain additional 5% of systems for testing if requested**

* IC 3-11-3-10; 3-11-8-7.5 ** IC 3-11-13-22; 3-11-13-23; 3-11-14.5-2

Voting Systems

- **Vendor Problem Reporting Requirements:**
 - Vendor must report problem with voting system or electronic poll book to VSTOP and SOS within 48 hours before election day, and within 3 hours on Election Day itself. Report must include:
 1. Nature of problem.
 2. Number of counties, precincts, etc., affected by problem.
 3. Vendor’s preliminary plan to fix problem.*
- **Voting Systems and Public Information Requests**
 - CEB Voting System Physical Security resolutions (opting for procedures other than state law) are confidential.
 - County can refuse to disclose administrative info regarding voting system configuration or technical information.**

* IC 3-11-17-7; 3-11-18.1-14 ** IC 3-11-15-46; IC 5-14-3-4

Voting Systems

- **Software Restrictions on Electronic Poll Books:**

CEB is responsible for making certain that software NOT NEEDED for essential purpose are kept off of electronic poll books.*

- **“Just in Time” Delivery of Electronic Poll Books:**

County must receive prior written authorization from VSTOP for delivery of electronic poll book unit to county less than 60 days before election. **

* IC 3-11-8-10.3; ** IC 3-11-18.1-12

Precincts

- **Minimum Number of “Active” Voters Required for New Precincts or Precincts with Boundary Changes:**

- If precinct boundary changed or new precinct established after July 1, 2019, new precinct must contain at least 600 active voters.
- Exceptions: when precinct boundaries must avoid crossing certain boundaries, such as congressional or state legislative lines, or if new precinct would consist of entire municipal council district.
- Grandfathering: Precincts with less than 600 active voters as of June 30, 2019 not required to comply with minimum number until (or unless) precinct boundary is changed.*

* IC 3-11-1.5-3.1

December 2020 Conference

- **New attendance requirements and “invited” participants:**
 - Members of separately created county boards of registration now REQUIRED to attend.
 - Circuit court clerk or county board of registration can require attendance of certain deputies and assistants (Same formula as State Board of Accounts conference law.)*
 - December 14-16, 2019. Location TBA shortly.

* IC 3-6-4.2-14

Election Division Contact Information

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